IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9932 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DASABHAI KALALBHAI CHAVDA

Versus

STATE OF GUJARAT -THROUGH-

Appearance:

1. Special Civil Application No. 9932 of 2004

MR CJ VIN for Petitioner No. 1

MR SP HASURKAR, AGP for Respondent No. 1-3

MR RC KAKKAD for Respondent No. 4

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 08/02/2005

ORAL JUDGEMENT

By the order dated 16.8.2004 rule was issued in the petition and notice as to interim relief was made

returnable. At the joint request of the learned advocates appearing for the parties, this petition is taken up for final disposal today.

2. In the present petition, the petitioner has challenged the order dated 23rd June 2004 by which the respondent No.4 was pleased to terminate the services of the petitioner. The petitioner was initially engaged as a Pharmacy worker by respondent No.4 through a selection process. The petitioner was appointed by order dated 21st February 2004. The said appointment was on probation.

3. It is the case of the respondent No.4 University that the post on which the petitioner was appointed was reserved for Scheduled Caste candidates. The petitioner had in fact, produced his caste certificate claiming to be belonging to Schedule Caste category. It is further stated that upon verification of the caste certificate with the authorities of the State Government, the University found that the caste certificate produced by the petitioner was not genuine and appeared to be bogus. On the basis of this finding, the University was prompted to terminate the services of the petitioner. Simultaneously, the University has also filed a criminal complaint against the petitioner.

4. It is not in dispute that the post on which the petitioner was appointed was reserved for Scheduled Caste candidates. It is also not in dispute that the petitioner claiming to be a Scheduled Caste candidate had applied for the post in question and had also along with his application produced supporting documents which included his caste certificate. What is also not in dispute is that the respondent No.4 while carrying out the inquiry with respect to the genuineness of the caste certificate produced by the petitioner had at no point of time involved the petitioner in such an inquiry. At no stage any notice or any other form of opportunity was granted to the petitioner to put forth his case and to enable the petitioner to meet with the allegations that the caste certificate produced by him is not genuine. Thus, admittedly the University carried out a unilateral inquiry with respect to the genuineness of the caste certificate produced by the petitioner and passed the impugned order dated 23.6.04 terminating the services of the petitioner on the ground that he does not belong to Schedule Caste category. If the petitioner has secured employment on a reserved category seat claiming to belong to such reserved category and if it is ultimately found that the certificate produced by the petitioner is not

genuine, the powers of the University to take legal action against the petitioner including terminating his services cannot be doubted. Such an action, however, clearly results into adverse civil consequences against the petitioner and therefore, the University could not have passed the impugned order of termination of services of the petitioner without following the basic requirements on principles of natural justice. As noted earlier, there is no dispute about the fact that before terminating the services of the petitioner, respondent No.4 had not even given a semblance of chance to the petitioner to represent his case. In that view of the matter, the action of the respondent No.4 cannot be sustained. The impugned order dated 23rd June 2004 is therefore quashed and set aside with all consequential effect. This, however, will be without prejudice to the rights of the respondent No.4 to pass a fresh order in accordance with law after giving the petitioner a reasonable opportunity to represent his case. With these directions, the petition is allowed to the above extent. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)
(vjn)